

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	MURs 4568,4633, 4634 and 4736
Rob Riley, Jr.)	
Bob Riley for Congress Committee and)	
Hughel Goodgame, as Treasurer)	

RESPONDENT'S SUPPLEMENT TO CONCILIATION AGREEMENT

Pursuant to the Conciliation Agreement signed December 19, 2001 by Paul Sullivan, on behalf of Respondents, and the Federal Elections Commission ("Commission") to settle a potential civil lawsuit, the Commission agreed to allow Respondents to supplement the record after the Conciliation Agreement had been signed. This document constitutes Respondent's Supplement.

The Commission filed a Probable Cause Brief against Robert Riley, Jr. and the Bob Riley for Congress Committee ("Riley Committee") that was resolved pursuant to the attached Conciliation Agreement.¹ During a five-year investigation into this matter, the Commission found no evidence that a violation of any campaign finance law was committed by Congressman Bob Riley, Robert Riley, Jr., or the Riley Committee. Furthermore, no action was brought against any of the five Political Action Committees ("PACs") at issue or their representatives in an attempt to prove that any PACs conspired with Robert Riley, Jr. or the Riley Committee to violate the federal statutes at issue. It is undisputed, nonetheless, that for Robert Riley Jr. or the Riley Committee to have committed a violation under the statutes that the Commission contended were violated, the PACs would have to be a necessary party, and that the PACs would be just as guilty of violating the campaign laws that the commission contended Robert Riley Jr. and the Riley Committee violated.

Furthermore, it should be noted that the Commission did not argue that the funds at issue had been "earmarked," a distinction which shows the weakness of the Commission's case. The law clearly calls for "earmarking" in order for a violation to exist. The Commission openly stated that they did not believe any "earmarking" of funds occurred. Instead, the Commission argued that a more liberal definition of the statutes at issue should be applied even though the federal government made a different argument to the United States Supreme Court during oral argument in a prior similar case. In the prior case, the Commission argued that one must "earmark" funds in order for there to be a violation of the statutes at issue.

The United States Senate Committee responsible for overseeing campaign finance law violations investigated this same matter and the Senate Committee found no wrongdoing on the part of Congressman Riley, Robert Riley, Jr., or the Riley Committee.

¹ This matter did not involve Congressman Bob Riley and the Commission has made no allegations of wrongdoing against Congressman Riley. The Commission, as stated in the Conciliation Agreement and their probable cause brief, found no wrongdoing on the part of Congressman Bob Riley and never took any action against him.

28044195284

28044195285

Furthermore, the Commission's general counsel's office withheld exculpatory evidence when presenting its case to the Commission prior to the Commission's finding of probable cause. Specifically, the Commission failed to present an affidavit of Ms. Carolyn Malenick that further supported Robert Riley, Jr.'s statement of the facts of this case as well as that of the PACs. (The general counsel's office alleged that Ms. Malenick served as a conduit between Robert Riley Jr. and the five PACs at issue.) Ms. Malenick's affidavit is attached, and once again this evidence clearly shows that there was no earmarking or any agreement to take funds given by Robert Riley, Jr. to conservative PACs and give them to the Riley Committee. Instead, the general counsel's office told the Commission that Ms. Malenick refused to give any testimony regarding this matter, a fact that was blatantly untrue since the general counsel's office possessed a sworn affidavit from Ms. Malenick. It was only after the Commission made their probable cause finding that the Riley Committee and Robert Riley, Jr. learned of the Malenick affidavit through conversations with Ms. Malenick. The General Counsel's office later admitted that they had the affidavit and failed to produce it to the Commission.


Robert Riley, Jr. refused to pay any amount toward the settlement of this matter from personal funds even though the Commission initially insisted that Robert Riley, Jr. use personal funds to settle this matter before the Commission would enter into a Conciliation Agreement with Respondents. A payment of \$10,000.00 was made by the Riley Committee and not by Robert Riley, Jr. or Congressman Bob Riley to settle this matter. Furthermore, Robert Riley, Jr. and the Riley Committee refused to sign any Conciliation Agreement that required an admission of wrongdoing even though the Commission originally held the position that such an admission would be required before it would agree to sign a Conciliation Agreement. This matter was settled by Respondents solely because the legal bills associated with this matter had become excessive and Respondents were informed that not settling this matter and instead litigating this civil lawsuit would likely result in future legal fees in excess of \$150,000.00.


Rob Riley, Individually and on Behalf
of the Bob Riley for Congress Committee

STATE OF ALABAMA)
)
JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said State and County, do hereby certify that Rob Riley, whose name is signed to the foregoing instrument and who is known by me, acknowledged before me on this day that, being duly informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

Given this the 3rd day of November, 2003.


Notary Public
Commission Expires: 04/06/2006